Decision **DRAFT DECISION OF ALJ PULSIFER (Mailed 12/9/2003)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion into Competition for Local Exchange Service.	Rulemaking 95-04-043 (Filed April 26, 1995)
Order Instituting Investigation on the Commission's Own Motion into Competition for Local Exchange Service.	Investigation 95-04-044 (Filed April 26, 1995)

OPINION DENYING RATE INCREASE FOR NUMBER POOLING

By this decision, we deny the request for cost recovery for SBC Pacific Bell (Pacific) in the amount of $4.29 million for state-mandated number pooling. Pacific filed its request pursuant to the Federal Communications Commission (FCC) order issued in September 1999 (FCC 99-248) delegating interim authority to this Commission to implement various number conservation measures within California. Among other things, the FCC delegated authority for California to implement thousand-block number pooling, and directed this Commission to determine a method for carriers to recover eligible costs of state-mandated number pooling. This decision is issued in conformance with that directive.

We find that Pacific has reasonably documented its claimed costs to implement state-mandated number pooling in Numbering Plan Areas (NPAs) within California. Pacific claims it has incurred a total of $7,412,600 expense and $743,800 capitalized expenditures for number pools implemented in 2000 and

2001. Pacific has reduced its claim for cost recovery by an estimated savings of $4.33 million.

We conclude, however, that Pacific has understated the expected savings made possible through number pooling. We determine that the expected savings from number pooling in California actually exceed the $8.1 million in costs that have been identified by Pacific. In view of these offsetting cost savings, we find no justification to increase retail customer charges in order to compensate Pacific for implementing state-mandated number pools. Accordingly, we deny Pacific's request to increase retail customer charges to recover number pooling costs.

I. Framework for Assessing Cost Recovery Claims

As a basis for assessing Pacific's request for number pooling cost recovery, we are guided by the standards established by the FCC. As determined by the FCC, thousand-block number pooling is a numbering administration function. Section 251(e)(2) of the Telecommunications Act thus requires competitively neutral cost recovery mechanisms for federally mandated number pooling. Inasmuch as the FCC delegated authority to the Commission to implement number pooling trials, we are subject to the same statutory requirements applicable at the federal level in reviewing cost recovery claims.

The FCC's Telephone Number Portability Order offers guidance regarding the criteria with which a cost recovery mechanism must comply in order to be considered competitively neutral:

> First, "a 'competitively neutral' cost recovery mechanism should not give one service provider an appreciable, incremental costs advantage over another service provider, when competing for a specific subscriber." Second, the cost recovery mechanism "should

> not have a disparate effect on the ability of competing service providers to earn normal returns on their investments."[1]

On March 31, 2000, the FCC released its first order in the Number Resource Optimization (NRO) docket. Although the NRO adopted thousand-block number pooling on a mandatory nationwide basis, the Order continued to permit the states to implement individual pooling trials pursuant to existing delegations of authority pending national pooling implementation. The NRO Order also directed individual states to implement their own cost recovery mechanisms to enable carriers to recover qualifying costs for state-mandated number pooling. Individual state cost recovery plans, however, were to transition to the national cost recovery plan when it became effective. Although number pooling in California has since transitioned to the federal jurisdiction, Pacific seeks recovery of costs incurred covering the 2000-2001 period that state-mandated number pooling was being implemented.

As previously prescribed in the FCC *First Report and Order*, the same standards used to evaluate local number portability (LNP) costs also apply to thousand-block number pooling.[2] Under these standards, to be eligible for the extraordinary recovery, thousand-block number pooling costs must satisfy each of three criteria identified in the LNP proceedings.

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[1] Telephone Number Portability, *Fourth Memorandum Opinion and Order on Reconsideration*, CC Docket No. 95-116, RM 8535, FCC 99-151, at ¶ 32 (rel. July 16, 1999) (citing Telephone Number Portability, CC Docket No. 95-116, *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Red 8352, 8420-21 (1996)).

[2] *See First Report and Order*, 15 FCC Rcd at 7673, paras. 218-19.

First, only costs that would not have been incurred "but for" thousand-block number pooling are eligible for recovery.[3] Second, only costs incurred "for the provision of" thousand-block number pooling are eligible for recovery.[4] Finally, only "new" costs are eligible for recovery.[5] To be eligible for extraordinary recovery, carriers' thousand-block number pooling shared industry and carrier-specific costs directly related to thousand-block number pooling must satisfy all three of these criteria.[6] This three-pronged test is intended to prevent double recovery of number pooling and number portability costs[7] and also to prevent recovery of costs not directly related to number pooling.[8]

In its Third Report and Order, the FCC provided interpretation as to how to apply these tests. For purposes of cost recovery for state-mandated pooling, the FCC interpretations shall apply. Thus, only costs incurred "for the provision of" number pooling are eligible for recovery through the extraordinary mechanism, but these must also be costs that would not have been incurred "but

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[3] *See id.* at 7673, para. 218.

[4] *See id.*

[5] *See id.* at 7673, para. 219.

[6] Carrier-specific costs not directly related to thousands-block number pooling implementation are not eligible for recovery. (*See id.* at 7670, para. 211.)

[7] Because changes to the network for both thousand-block number pooling and number portability are similar, and because carriers are currently recovering the costs of number portability through a separate end-user charge, carriers were directed to distinguish the costs of providing number portability from the costs of implementing thousand-block number pooling. (*See id.* at 7672, para. 216.)

[8] *See id.* at 7672-73, paras. 216-17.

for" thousand-block number pooling.[9] Accordingly, only the demonstrably incremental costs of thousand-block number pooling may be recovered.[10]

For purposes of LNP cost recovery, the FCC adopted a narrow definition of the phrase "for the provision of . . . ." The only eligible LNP costs were "costs carriers incur specifically in the provision of number portability services, such as for the querying of calls and the porting of telephone numbers from one carrier to another."[11] Similarly, the thousand-block pooling functions for which costs are eligible for special recovery are only those incurred specifically to identify, donate and receive blocks of pooled numbers, to create and populate the regional databases and carriers' local copies of these databases, and to adapt the procedures for querying these databases and for routing calls so as to accommodate a number pooling environment.

Costs incurred as an "incidental consequence" of thousand-block number pooling implementation are not incurred specifically in the provision of these narrowly defined thousand-block pooling functions. Thus, costs incurred to adapt other systems to the presence of thousand-block number pooling are not incurred for the provision of thousands-block number pooling and are ineligible for recovery.[12] Costs for maintenance, repair, billing, and other functions that are not directly involved in the provision of thousands-block number pooling are not eligible for special recovery. Similarly, costs incurred to facilitate the continued

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[9] *See id.* at 7673, para. 218.

[10] *See id.* at 7672-75, paras. 217-24.

[11] *See LNP Cost Classification Order*, 13 FCC Rcd at 24501, para. 12 (citing *LNP Third Report and Order*, 13 FCC Rcd at 11740, para. 72).

[12] *See LNP Cost Classification Order*, 13 FCC Rcd at 24501, para. 12 (citing *LNP Third Report and Order*, 13 FCC Rcd at 11740, para. 72).

provision of other services in the presence of number pooling are an "incidental consequence" and are not eligible for recovery.

The third part of the FCC test requires that thousands-block number pooling costs must be "new" costs in order to qualify for special recovery. Costs incurred prior to the implementation of thousands-block number pooling are ineligible for recovery because they are embedded investments that are already subject to recovery through standard mechanisms. Permitting recovery of these costs again through the extraordinary mechanism would amount to double recovery.[13] Costs are not "new," and thus are ineligible for extraordinary treatment as thousands-block number pooling charges, if they were previously incurred, are already being recovered under other recovery mechanisms, or are already being recovered thorough the number portability end-user charge or query charge.

II. Measures to Address Number Pooling Cost Recovery

In Decision (D.) 00-07-022, the Commission addressed the issue of cost recovery for state-mandated number pooling by adopting procedures for the allocation of shared-industry number pooling costs among carriers. The Commission declined, however, to adopt any special cost recovery procedures for costs related only indirectly to number pooling. The Commission directed that a further record be developed to consider any appropriate cost recovery vehicle for carrier-specific costs directly related to state-mandated number pooling trials.

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[13] *See First Report and Order*, 15 FCC Rcd at 7673, para. 219; *see also LNP Cost Classification Order*, 13 FCC Rcd at 24503, para. 18.

By an Administrative Law Judge's (ALJ) ruling dated February 2, 2001, parties were directed to submit comments regarding the appropriate recovery mechanism for carrier-specific costs of state mandated number pools, including proposals for recovery of carrier-specific pooling costs from end-users.

Carriers seeking Commission authorization to recover carrier-specific costs were directed to submit a detailed showing supporting any claimed costs and excluding any costs subject to recovery in connection with LNP implementation. Carriers' cost recovery requests were also required to take into account the cost savings associated with thousands-block number pooling in comparison to other numbering practices that result in more frequent area code changes.

In the ALJ ruling issued on February 2, 2001, cost data was solicited from carriers holding 10 or more NXX codes in each of the respective NPAs in which pooling had been implemented at that time: (i.e., 310, 415, 714, and 909.) Carriers holding fewer than 10 NXX codes in each of those NPAs were not required to submit cost data.

Pacific and Verizon California, Inc. (Verizon) each submitted number pooling cost data,[14] and requested that the Commission adopt procedures for recovery of those costs.

With respect to carriers other than the Incumbent Local Exchange Carriers (ILECs), only Teligent Services, Inc. provided cost data,[15] but indicated it had no intention of seeking any explicit recovery for its carrier-specific California

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[14] Verizon filed its cost data under seal. No party opposed Verizon's request to file the data under seal. Accordingly, Verizon's request to file confidential cost data under seal was granted by a ruling dated February 5, 2002.

[15] Teligent filed its cost data under seal. No party opposed Teligant's request to file the data under seal. Accordingly, Teligent's request to file under seal is granted.

number pooling costs. WorldCom, Inc. and AT&T Communications of California, Inc. (AT&T) filed a joint motion on February 26, 2001. Pac-West filed a separate motion on February 27, 2001. These parties objected to the requirement to provide carrier-specific cost data since they are not seeking any explicit recovery of their number pooling costs, and argued that compiling such data would be costly and burdensome. Pacific and Verizon, however, argued that requests for exemption should be rejected because the Commission should ascertain the full cost of state-mandated number pools.

The motion of parties representing those carriers seeking to be relieved of the obligation to submit carrier-specific number pooling cost data was granted by an ALJ ruling. We affirm that ruling. Since carriers other than Pacific and Verizon are not requesting authorization for any explicit cost recovery provision, there is no need to burden other carriers with compiling such cost data.

Limiting the cost data requirement only to Pacific and Verizon is consistent with the cost recovery approach at the federal level. The FCC stated that its federal cost recovery mechanism would apply to LECs subject to "price cap" regulation, and that such LECs could recover eligible number pooling costs through "an exogenous adjustment to access charges." Carriers not subject to rate regulation were permitted to recover their number pooling costs "in any lawful manner."

As stated previously, Section 251(e)(2) of the Telecommunications Act requires competitively neutral cost recovery mechanisms for federally mandated number pooling. The FCC thus has deemed its dual approach to cost recovery between the ILECs and Competitive Local Exchange Carriers (CLECs) to be consistent with the statutory requirement that cost recovery be competitively neutral. Therefore, consistent with the federal approach, our review of number

pooling costs for state-mandated number pools shall be limited only to Pacific and Verizon since only they are subject to "price cap" regulation.

III. Pacific's Cost Recovery Proposal

In this order, we specifically address the request for recovery of number pooling costs filed by Pacific.[16] Pacific claims it has incurred a total of $7,412,600 in expenses and $743,800 capitalized expenditures for state-mandated number pools implemented in 2000 and 2001.[17] Pacific computes an offsetting savings of $4,330,000 from the institution of the number pools due to deferral of area code relief expenses. Pacific thus seeks to increase retail rates to recover the net costs, after deducting the expected savings.

Pacific proposes to recover the number pooling costs from all of its retail customers in California, implemented through its annual price cap filing. Pacific believes that all of its customers should bear the costs of implementing number pooling, irrespective of whether they reside within the specific area codes subject to number pooling. With the exception of the first number pool implemented in the 310 area code, Pacific argues that all of the subsequent number pools benefit from the experience and knowledge gained from the previous trials. By

[16] Number pooling cost recovery for Verizon is not addressed in this order. By ALJ ruling dated March 6, 2002, Verizon's request was granted to defer responding to Commission rulings for supporting documentation for its number pooling costs until 30 days after the federal number pooling cost recovery mechanism was established. Since March 6, 2002, Verizon has not provided any further information to the Commission concerning its number pooling costs.

[17] Pacific computed implementation costs for the following area codes for which number pooling was implemented during 2000 and 2001: 310, 415, 714, 909, 323, 408, 510, 562, 619, 650, 818, 858, 916, and 925.

spreading the costs among all customers, Pacific avoids the need to create a new line item on customers' bills to reflect number pooling recovery.

Parties representing various CLECs filed comments on March 12, 2001 in response to Pacific's proposal, claiming its number pooling cost data submission was deficient as a basis to justify pass-through recovery from customers. The parties argue that Pacific failed to indicate how costs had been segregated between federal and state-mandated pooling programs. Before any cost recovery is approved, commenters argued that federal and state pooling costs must be reconciled to ensure that Californians do not disproportionately subsidize Pacific's national pooling programs. Commenters also argued that the Commission should ascertain that any pooling cost recovery excludes system upgrades that are already being recovered through number portability surcharges. The potential for double cost recovery is an issue to the extent that number pooling, in part, utilizes number porting technology. Moreover, the ILECs already recover number porting costs through an end-user surcharge.

Parties also objected to Pacific's proposed method of cost recovery through its annual price cap filing. At a minimum, the CLECs argue that Pacific should not be permitted to hide number pooling charges in its retail rates, but should be compelled to identify pooling as a specific line item on the customer bill.

An ALJ ruling was issued on February 5, 2002, calling for further data to explain and document Pacific's costs, and to verify compliance with the cost recovery criteria outlined by the FCC. Pacific filed a response to the February 5, 2002 ALJ ruling on March 8, 2002. A subsequent ALJ ruling was issued on May 1, 2002, directing Pacific to provide further justification for specific cost elements relating to its number pooling cost recovery request. Pacific provided the requested information on May 15, 2002. The staff of Telecommunications Division also conducted additional investigation and discovery relating to

Pacific's cost recovery request. We consider below the individual cost elements sought for recovery by Pacific.

IV. Examination of Specific Number Pooling Cost Elements

A. Software Costs

Pacific seeks to include, as eligible for number pooling recovery, the cost of Number Portability Administration Center (NPAC) software known as Release 1.4. Pacific claims that NPAC Release 1.4 software provides the basic capability enabling it to participate in pooling. Parties claimed that Pacific failed to demonstrate that the NPAC Release 1.4 software meets the "but for" test and the "for provision of" test under the FCC criteria for cost recovery.

Pacific claims that Release 1.4 is not needed for services other than number pooling. Parties argue, however, that Release 1.4 provides capabilities that are important for both the pooling and the porting of numbers. Commenters characterize Release 1.4 essentially as porting software which includes pooling functionality, and which contains the database required to effect the porting of numbers.

Pacific was directed to provide further explanation to demonstrate that the software costs it seeks to recover are exclusively for pooling functionality, and do not include functionalities that are for services other than number pooling. Pacific responds that Release 1.4 is specifically related to number pooling. Neustar's "Statement of Work for Number Pooling, Release 1.4 R1" explicitly states that Release 1.4 is planned to implement number pooling.

B. Signal Transfer Points (STP) System Expansion

The Signal Transfer Points (STP) system is a database that contains both signaling and pooling information used to provide call set-up and additional communication services to ensure that calls are routed properly. The

STP database keeps track of every pooled and ported number in California. Pacific seeks to include costs to expand its STP system, arguing that such expansion was necessary to accommodate the demands of large numbers of pooling records.

Opposing parties argue, however, that Pacific's preexisting obligation to port numbers also places capacity demands on STP systems, and that Pacific did not account for those demands in its claimed costs of STP expansion attributable to number pooling. Pacific was directed to present further supporting explanation to justify why the demands imposed by number pooling—to the exclusion of number porting—have required the STP expansion costs that are claimed for recovery as number pooling costs.

Pacific explains that its network engineers determine the need for expansion in system capacity based upon growth in demand that exceeds prescribed thresholds. Once demand exceeds the threshold limits, system expansion becomes necessary to avoid network and signaling degradation. Because Pacific's engineers separately evaluate growth in demands from both porting and pooling, the engineers are able to determine which of these demands cause the need for STP system expansion. Pacific's engineers evaluated the additional database entries that occurred as a result of number pooling, and identified those STP elements that exceeded growth threshold levels. Pacific states, therefore that the STP database upgrades would not have been necessary based only on porting demands, but were directly required as a result of demands placed on the system due to pooling.

C. Process Design and Number Administration Costs

Pacific seeks recovery of certain network service costs, including its process design, line, and number administration services. These cost elements

are intended to support identification and development of process changes required by statewide number pooling, such as for assessment of contaminated blocks for donation to the pool, and discrepancy resolution for working telephone numbers in a contaminated block.

Parties filing responses claim that the costs for these functions appear more related to general number administration than to specific thousands-block pooling obligations imposed by California. To the extent that these costs reflect functions that are only the "incidental consequence" of thousand-block number pooling administration, or were incurred to adapt other systems to the presence of thousands-block pooling, they are ineligible for recovery under FCC criteria.

Pacific was directed by ALJ ruling to explain why, or to what extent, the process design and number administration costs claimed for recovery relate specifically to number pooling, in contrast to general number administration functions.

Pacific responded that none of the tasks whose costs are included as "process design" would have been necessary in the absence of number pooling. Pacific argues that general telephone number administration is performed and managed separately from number pooling administration. Pacific asserts that it has not included any costs for general telephone number administration in its filing. Additional administration functions are required for compliance with the federally mandated number conservation measures, but are tracked separately from general number administration functions.

D. Distinction Between "Statewide Pooling Trial" Versus "Statewide Pooling" Costs

Pacific was directed to provide clarification as to whether its description of "statewide number pooling" refers to statewide trials authorized by this Commission or statewide pooling carried out in conjunction with the

FCC's rollout schedule for nationally mandated number pooling. Since the latter costs are subject to federal cost recovery mechanisms, Pacific was directed to verify that such costs have been excluded from any of the costs for state-mandated pooling trials for which it seeks recovery before this Commission.

Pacific explains that it uses the term "statewide number pooling" to refer only the number pools that have been mandated for implementation by this Commission. Pacific uses the term "National Number Pooling" in the same fashion as is used by SBC, its parent company, to refer to the FCC's national number pooling rollout schedule. Pacific states that "statewide number pooling" and "national number pooling" are assigned different tracking codes by SBC so that costs are allocated to the correct project.

V. Savings Due to Deferral of New Area Code Implementation Plans

The FCC rules require that any cost recovery for number pooling be offset by cost savings realized by virtue of delaying the need for opening a new area code by extending the useful life of the NPA. Pacific argues that estimating the savings in area code relief costs due to number pooling is speculative, and that many of the relevant variables in estimating such savings are unknown or unknowable. Such variables include the impact, if any, that number pooling may have on code exhaust, future demand for numbering resources, the type of area code relief, the timing of such relief, and the time period for comparison.

A. Pacific's Calculations

Pacific believes that, at best, number pooling would delay the need to implement a new area code in areas with sufficient numbering resources available, but will not permanently eliminate the cost of area code relief. Thus, Pacific computes an estimated cost savings based on assumed temporary deferral of new area code relief. In its February 26, 2001 filing, Pacific estimated a cost

savings of $3.79 million associated with number pooling implementation in three NPAs (i.e., 415, 714, and 909). In developing these cost savings, Pacific assumed that number pooling delayed area code relief by 2.25 years for the 415 and 714 area codes, and by 2 years for the 909 area code.

In developing its cost savings estimate in its March 8, 2002 filing, Pacific extended its calculations to include all NPAs subject to number pooling during 2000 and 2001. On average, Pacific assumed that pooling would delay NPA exhaust by 3 years or less, and used a 10% annualized rate to calculate cost escalation over the period of delay.

Pacific claims that a 10% rate is reasonable since this represents the "market-based rate of return" adopted for Pacific by the Commission. Pacific thus applied the following formula to compute savings from the effects of number pooling:

Cost Savings = (Estimated relief cost * $(1+0.1)^{\text{cost delay}}$ - Estimated relief cost)

Pacific initially calculated the savings in its February 26, 2001 filing based upon number pooling in four NPAs, namely, 310, 415, 714, and 909. Pacific estimated total implementation costs of $8.08 million and subtracted out estimated cost savings of $3.79 million, to yield a net cost of $4.29 million for which it seeks retail rate recovery.

In its March 9, 2002 filing, Pacific updated its estimated cost savings to $4.33 million due to number pooling for NPAs subject to state-mandated pools implemented during 2000 and 2001. The update reflected total costs of $8.1 million less savings of $4.33 million based on inclusion of the following additional NPAs in the estimate (i.e., 818, 408, 650, 510, 916, 323, 925, 619, 562,

and 858). The $8.1 million number pooling cost estimate consists of $743,800 in capital expenditures and $7,412,600 in operating expenses.

Pacific's calculations of costs and savings are set forth in Table 2 in the appendix to this order. As a basis for its $4.33 million cost saving estimates, Pacific determined the time interval between the June 2001 NANPA exhaust projection date for each NPA and a deferral period end date of April 2, 2004. The April 2, 2004 date represents the mid point in the second quarter of 2004, the date by which the FCC required number pooling cost recovery under the federal program to be completed. Pacific thus calculates the delay period for purposes of cost savings as the difference between the NANPA exhaust projection date for the respective NPA (before the effects of number pooling are considered) and the endpoint of April 2, 2004. Pacific argues that the assumed deferral period should not exceed the time horizon for traditional net present value analysis in static industries, which Pacific claims is a five-year period.

Using a cost of money of 10%, Pacific then computed savings associated with the assumed deferral period for each NPA, based on an estimated average cost of $5.5 million per NPA for relief plan implementation costs.[18]

Joint Commenters argue that Pacific's projected cost savings understate the effects of customer education associated with area code changes. Joint Commenters argue that if education costs (e.g., billing functions, notices, and stationary changes) costing $400,000 were delayed by three years at 10% per

[18] Pacific did not compute any cost savings for the 310 NPA because all of the costs for implementing a new area code overlay had already been incurred at the time it was suspended prior to implementation. Pacific states that it has also completed a majority of the work for an area code split in the 310 NPA.

year, Pacific would have saved more than $100,000 per NPA. Joint Commenters also claim an argument could be made that cost deferred savings associated with customer education should be based upon an overlay rather than a split (as Pacific assumes). The 310 NPA overlay education programs cost Pacific approximately $339, 000.

B. Discussion

We recognize that there is uncertainty in any estimate of cost savings associated with the effects of number pooling. Nonetheless, the FCC has directed that expected cost savings must be taken into account in evaluating carriers' requests for number pooling cost recovery through retail rates.

We conclude that Pacific has understated the savings reasonably expected from number pooling. The savings from number pooling are a function of the time value of money associated with the period that area code relief costs can be deferred due to more efficient utilization of pooled thousand-blocks. By setting shortened limits on the period over which area code deferrals are recognized, however, Pacific has failed to capture the full effects of number pooling in extending the life of an area code.

For purposes of calculating the deferral in required area code relief due to number pooling, Pacific uses April 2, 2004 as a cut off point for each NPA.

We conclude that cutting off the analysis of savings at April 2, 2004 is inappropriate as a basis for capturing the full period of deferral in implementing a new area code due to the effects of number pooling. Savings associated with number pooling is a function of the delay in opening new area codes, which is not dependent upon the endpoint for completing number pooling cost recovery. Since the timing of new area code implementation is based upon code exhaust forecasts, it is reasonable to use such code exhaust forecasts in assessing the

savings associated with the deferral of new area codes. The code exhaust forecasts of the NANPA form a source of such data. With the implementation of number pooling, new area codes can be deferred beyond April 2, 2004.

Thus, we shall estimate cost savings due to number pooling as a function of the change in NANPA code exhaust projection dates before versus after number pooling in each NPA. When the cost delay period is determined on this basis, we find that the projected cost savings increase beyond those assumed by Pacific. In fact, the projected savings actually exceed the state-mandated number pooling implementation costs that Pacific has identified. We present our revised calculation of the expected savings due to number pooling in Appendix Table 3 of this order. Using Pacific's own assumptions for area code relief costs, we compute an estimated savings adjusted for the additional deferral in area code relief costs beyond April 2, 2004, of $15.2 million, as set forth in Appendix Table 3 (Column I). Thus, our computation of estimated savings exceeds Pacific's number pooling costs, taking into account the deferral in area code relief under the NANPA forecasts.

The savings that we calculate thus are based on the time value of money associated with deferral period for area code relief implementation based on NANPA code exhaust forecasts. We calculate the total escalation in costs attributable to the period of deferral, and then discount the escalated costs to their net present value in 2002 dollars. For purposes of computing the time value of money over the period of deferral, we have used the "Gross Domestic

Product" Deflator index. We believe this publicly available index reasonably reflects the effects of the time value of money over the period of cost deferral.[19]

We realize that NANPA forecasts are subject to various assumptions that may prove to be different from actual experience over time. Nonetheless, for purposes of computing expected savings, we conclude that the NANPA forecasts offer the most objective available source concerning how long number pooling is expected to extend area code lives.

In its calculations, Pacific assumed an average cost of area code relief implementation of $5.5 million for each NPA in which number pooling was implemented during 2000-01. Also, as noted by parties, Pacific may have understated relief costs by ignoring the potentially higher costs of customer education if an overlay had been implemented. Moreover, Pacific's estimates of area code relief of $5.5 million per NPA represent merely an average across its entire 13-state SBC region. In supplemental discovery conducted by Commission staff, SBC submitted additional information deemed confidential and provided pursuant to General Order 66-C relating to SBC's costs for NPA

[19] The specific numerical values utilized in our calculations of the time value of money based upon the Gross Domestic Product Deflator index for each applicable year are as follows:

Year	GDP Deflator (% Change)	Year	GDP Deflator (% Change)	Year	GDP Deflator (% Change)
1996	1.9	2003	1.5	2011	2.5
1997	1.9	2004	1.3	2012	2.6
1998	1.2	2005	1.6	2013	2.6
1999	1.4	2006	1.7	2014	2.6
2000	2.1	2007	1.8	2015	2.6
2001	2.4	2008	1.9	2016	2.6
2002	1.1	2009	2.0	2017	2.6
		2010	2.3	2018	2.6

relief in California.[20] As indicated in SBC's responses, SBC's aggregate costs for NPA relief in California are, in fact, higher than in other states in which its affiliates operate.

The aggregate costs for NPA relief in California, as provided in data responses supplied by Pacific to the staff, indicate estimated nominal costs totaling $62,896,700 related to those NPAs for which data was available. Although Pacific asserts confidentiality as to the specific relief costs for each NPA, a general average cost per NPA can be calculated using its estimated aggregate NPA relief cost data. The total of $62,896,700 for seven NPAs for which cost data was provided equates to an average per NPA cost of $8.98 million. This cost figure is higher than the $5.5 million costs per NPA reflected in Pacific's savings calculations based merely on use of the 13-state average of NPA relief costs. By recognizing the higher estimated costs of NPA relief in California relative to the 13-state region average, the associated savings from deferring those costs due to number pooling is likewise even higher than the amount assumed under Pacific's use of the 13-state average figure. These higher California-specific NPA relief costs further support our conclusion that the savings from number pooling exceed Pacific's claimed number pooling costs.

In its comments on the Draft Decision, SBC argues that our calculation of savings underlying the disallowance of its number pooling costs implicitly assumes that number pooling is the sole basis for deferral of area code relief.

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[20] Pertinent data response material was received into the record under seal by an ALJ ruling dated December 3, 2003. While Pacific asserted confidentiality of data response information relating to the specific costs of area code relief associated with individual California NPAs, Pacific does not object to disclosure of its data responses limited to actual aggregate costs of California NPA relief.

SBC argues that there are additional factors that account for the deferral including the recent economic downturn, consolidation of industry providers, technological improvements enabling customers to use a single telephone number in multiple ways, and the Commission's lottery for non-pooling participants.

In response to SBC's argument, we acknowledge that certain factors other than number pooling may have contributed to some degree in extending the time before area code relief may be needed in a particular NPA. Yet, while other factors may have some relevance in extending the life of the NPA, number pooling remains a significant factor in accounting for the extension in projected dates for code exhaust and the need for area code relief. SBC, in its own calculations of savings attributable to number pooling, provided no data quantifying the extent to which area code relief may have been deferred due to factors other than number pooling.

Moreover, the projected savings due to the deferral of area code relief that we have calculated exceed the costs claimed by SBC as being attributable to number pooling implementation. This extra margin of savings is consistent with the recognition of potential contributions from factors other than exclusively number pooling. Yet, nothing in SBC's comments refutes that the fact number pooling has played a significant role in deferring the need for area code relief or that SBC's cost savings are understated. For our purposes here, it is not necessary to conclude that every single dollar of savings that we have calculated in Appendix Table 3 is attributable exclusively to number pooling. Moreover, we need not derive the exact amount of savings exclusively attributable to number pooling, as long as we can reasonably conclude that any savings reasonably attributable to number pooling are at least large enough to offset SBC's claimed number pooling costs. Particularly in view of the magnitude of

savings that we have calculated, it is reasonable to conclude that the savings attributable to number pooling is in fact at least large enough to offset SBC's claimed number pooling costs.

We therefore conclude that Pacific has understated the expected savings from number pooling. Our estimates of the projected savings, after the adjustments noted above, at least offset the costs that Pacific has claimed are recoverable due to number pooling. Accordingly, we conclude that there is no justification for increasing retail rates to recover state-mandated number pooling costs since the projected savings more than offset such costs. Therefore, we deny Pacific's request for a retail rate increase to recover state-mandated number pooling costs.

VI. Comments on Draft Decision

The draft decision of ALJ Thomas R. Pulsifer in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments on the draft decision were filed on December 29, 2003. We have taken the comments into account in finalizing this order.

VII. Assignment of Proceeding

Loretta M. Lynch is the Assigned Commissioner and Thomas R. Pulsifer is the assigned ALJ in this proceeding.

Findings of Fact

1. On March 31, 2000, the FCC released its first order in the Number Resource Optimization (NRO) docket which continued to permit the states to implement individual pooling trials pursuant to existing delegations of authority pending national pooling implementation.

2. The NRO Order also prescribed that individual states implement their own cost recovery mechanisms to enable carriers to recover the costs for state-mandated number pools.

3. The FCC *First Report and Order* prescribes that the same strict standards used to evaluate LNP costs also apply to thousand-block number pooling.

4. Inasmuch as the FCC has delegated authority to the Commission to implement number pooling, this Commission is subject to the same federal statutory requirements regarding competitively neutral criteria for cost recovery.

5. Pacific incurred a total of $7,412,600 expense and $743,800 capital expenditures for state-mandated number pools implemented during 2000 and 2001 that meet the criteria for cost recovery (before considering the effects of offsetting savings due to deferral of opening new area codes).

6. The cost of Number Portability Administration Center Release 1.4 software is specifically related to number pooling implementation.

7. The STP database system expansion costs incurred by Pacific were necessary to accommodate the demands of number pooling.

8. The Process Design and Number Administration costs incurred by Pacific were necessary to support identification and development of number pooling process changes, including assessment of contaminated blocks and discrepancy resolution.

9. Pacific has established separate tracking codes to provide for separate identification of state-mandated number pooling costs as distinct from nationally mandated number pooling that is subject to federal cost recovery mechanisms.

10. The FCC requires that any cost recovery for number pooling be offset by associated cost savings. Number pools save costs by delaying the need for opening a new area code and extending the useful life of the existing NPA.

11. The cost savings calculated by Pacific are based on a time value of money of 10% per year applied to Pacific's assumed average cost of implementing a new area code.

12. Pacific's calculation of offsetting savings of $4,330,000 due to number pooling fails to take into account the expected duration of area code relief deferral based upon the NANPA's projected NPA exhaust dates.

13. Pacific based its calculation of the deferral period attributable to number pooling based on the time interval between the June 2001 NANPA exhaust projection date for each NPA and a deferral period end date of April 2, 2004, the date for completion of federal number pooling cost recovery.

14. A more relevant measure of the NPA deferral period attributable to number pooling can be derived based upon the difference in NPA code exhaust date as projected by the NANPA comparing the projections before and after number pooling is assumed to take effect.

15. The change in the estimated code exhaust date as provided by the NANPA comparing forecasts for each respective NPA before and after number pooling is taken into account are as set forth in Table 3 (Columns J through L) in the Appendix of this order.

16. By applying the extent of deferral in the required date for opening a new area code due to number pooling based on NANPA forecasts before and after number pooling is considered, the resulting estimated savings increases from $4.3 million to $15.2 million, as calculated in Appendix Table 3, for those NPAs identified by Pacific subject to number pooling.

17. The calculations of discounted present value savings set forth in Appendix Table 3 are based upon a time value of money utilizing the Gross Domestic Product Deflator Index, with specific annual numerical values as set forth in the body of this order.

18. While other factors may have some relevance in extending the life of the NPA, number pooling remains a significant factor in accounting for the extension in projected dates for code exhaust and the need for area code relief.

19. Even to the extent it may be assumed that some portion of the calculated savings associated with the deferral in area code relief may be attributable to certain other factors, it is reasonable to conclude that the savings attributable to number pooling are at least large enough to offset the costs of implementation claimed by SBC.

20. Pacific's number pooling savings calculations utilized NPA relief costs based upon the SBC 13-state average for relief costs, and failed to recognize the relatively higher estimated NPA relief costs associated with California, aggregating $62.897 million for seven reported NPAs for which data was provided, or an average of $8.98 million per NPA in nominal dollars.

21. When the higher costs of NPA relief in California are considered in the calculation of number pooling savings, the associated savings from deferring these costs is greater than when using Pacific's multi-state averages.

22. Pacific has not justified the need for a rate increase to recover costs associated with state-mandated number pooling in view of the fact that the calculated savings from such number pools, as adjusted by this order, offsets the number pool implementation costs claimed by Pacific.

Conclusions of Law

1. Carrier requests for any recovery through retail rates of state-mandated number pooling costs related to implementation must conform to relevant FCC directives calling for such state-mandated cost recovery.

2. Costs qualifying for recovery related to state-mandated number pooling must meet each of the criteria designated by the FCC for recovery of local number pooling costs.

3. Pursuant to FCC directives, state-mandated number pooling costs must be netted against estimated savings associated with number pooling to determine if there are any costs subject to recovery in retail rates.

4. It is reasonable to consider the cost recovery for number pooling with respect to all of Pacific's service territory, rather than separately allocating costs to customers residing in each affected NPA.

5. For purposes of calculating the savings associated with number pooling, the change in the NPA code exhaust date estimated by NANPA provides a more appropriate measure than the cut off date for federal number pooling cost recovery.

6. Pacific has made a showing of costs that it has incurred with respect to state-mandated number pools, but has understated the savings resulting from the resulting deferral in the required dates for implementing new area codes.

7. Pacific's request should be denied for a retail rate increase to reflect its cost of state-mandated number pooling in view of the fact that eligible costs subject to any such recovery are less than estimated savings in area code relief costs from implementing number pools.

O R D E R

IT IS ORDERED that SBC Pacific Bell's request to increase retail customer charges for costs of state-mandated number pooling is hereby denied.

This order is effective today.

Dated _____, at San Francisco, California.

APPENDIX Table 1

SBC Pacific Number Pooling Costs
For NPAs Incurred 1999-2001

($000's)

	Actuals 1999		Actuals 2000		Actuals 2001		Totals	
NPA	Capital	Expense	Capital	Expense	Capital	Expense	Capital	Expense
310		$806.5	$0.0	$3,286.9	$0.0	$314.6	$0.0	$4,408.0
415			0.0	753.2	0.0	218.8	0.0	972.0
714			0.0	338.4	0.0	95.0	0.0	433.4
909			0.0	205.1	0.0	128.0	0.0	333.2
323					0.0	68.4	0.0	68.4
408					0.0	46.1	0.0	46.1
510					0.0	66.7	0.0	66.7
562					0.0	79.6	0.0	79.6
619					0.0	396.5	0.0	396.5
650					0.0	66.4	0.0	66.4
818					0.0	42.7	0.0	42.7
858					0.0	25.2	0.0	25.2
916					743.8	416.7	743.8	416.7
925					0.0	57.7	0.0	57.7
Total	$0.0	$806.5	$0.0	$4,583.7	$743.8	$2,022.4	$743.8	$7,412.6

(END OF APPENDIX Table 1)

APPENDIX Table 2

Pacific's Calculation of Cost Savings Due to Delay in NPA Relief (Based on NPA split method of relief)

NPA	ESTIMATED NPA RELIEF COST ($M)	LOCATION (MAJOR CITY)	COST DELAY (Years)	Total Cost Savings ($M)*
A	B	C	D	E (see note)
310	$5.5	Torrance / Santa Monica	0**	N / A
415	$5.5	San Francisco / Marin Cty	1.75	$1.00
714	$5.5	Santa Ana	1.75	$1.00
909	$5.5	Riverside / San Bernardino	1.5	$0.85
			Total	$2.84
818	$5.5	Burbank	0.5	$0.27
408	$5.5	San Jose	0	$0.00
650	$5.5	San Mateo	0	$0.00
510	$5.5	Oakland	0.75	$0.41
916	$5.5	Sacramento	0.75	$0.41
323	$5.5	Los Angeles / Downtown	0.75	$0.41
925	$5.5	San Ramon / Walnut Creek	0	$0.00
619	$5.5	San Diego	0	$0.00
562	$4.5	Long Beach	0	$0.00
858	$5.5	North San Diego	0	$0.00
			Total	$1.49
			Grand Total	$4.33

Notes:

Formula for Cost Savings = (Est Cost*(1+COM)^delay) – Est Cost = (Col B *(1+0.1)^Col D) – Col B

* COM = "Cost of Money" = 10%

** No cost savings assumed from the 310 pooling trial. Pacific has already incurred NPA relief costs from the 310 overlay and costs associated with the pending 310 split.

(END OF APPENDIX Table 2)

APPENDIX Table 3
Recalculation of Number Pooling Savings

Column A	Column B	Column C
Pooling Costs Incurred (in 2002 dollars)	**Sum of NPA Relief Costs Saved (in 2002 dollars)**	**Net Costs Incurred = Pooling Costs Incurred - NPA Relief Costs Saved**
$8,428,725	$15,211,878	$(6,783,153)

NPA Relief Costs Saved (in 2002 dollars)

NPA	Column D Average Estimated Cost of NPA Relief (in 1998 dollars)	Column E Average Estimated Cost of NPA Relief (in Exhaust Date 1 dollars)*	Column F Cost Delay (in years of implementing NPA relief)	Column G Future Value of Total Cost Savings (in Exhaust Date 2 dollars)*	Column H Present Value of Total Cost Savings (in Exhaust Date 1 dollars)	Column I NPA Relief Costs Saved (in 2002 dollars)
415	$ 5,500,000	$ 5,894,914	2.5	$ 1,586,078	$ 1,249,807	$ 1,249,807
714	$ 5,500,000	$ 5,894,914	1.75	$ 1,069,983	$ 905,607	$ 905,607
909	$ 5,500,000	$ 5,894,914	0.25	$ 142,148	$ 138,801	$ 138,801
818	$ 5,500,000	$ 5,894,914	2.25	$ 1,409,931	$ 1,137,796	$ 1,137,796
408	$ 5,500,000	$ 5,894,914	2.25	$ 1,409,931	$ 1,137,796	$ 1,137,796
650	$ 5,500,000	$ 6,158,099	1.25	$ 779,154	$ 691,644	$ 519,642
510	$ 5,500,000	$ 5,983,338	1.25	$ 757,042	$ 672,015	$ 610,923
916	$ 5,500,000	$ 5,983,338	2.5	$ 1,609,869	$ 1,268,554	$ 1,153,231
323	$ 5,500,000	$ 5,983,338	1.25	$ 757,042	$ 672,015	$ 610,923
925	$ 5,500,000	$ 6,061,121	2.75	$ 1,816,278	$ 1,397,502	$ 1,154,960
619	$ 5,500,000	$ 6,375,517	1.5	$ 979,852	$ 849,320	$ 527,361
562	$ 5,500,000	$ 6,262,787	8.5	$ 7,817,304	$ 3,477,116	$ 2,374,917
858	$ 5,500,000	$ 6,061,121	14	$16,955,977	$ 4,465,039	$ 3,690,115
	$71,500,000					$15,211,878

* Exhaust Date 2 is NANPA's Exhaust Projection as of June 2002 and Exhaust Date 1 is NANPA's Exhaust Projection as of April 2000 or June 2001 depending on when the NPA started to pool.

NPA	Column J Exhaust Date 2 (the time to implement NPA relief w/ pooling)	Column K Exhaust Date 1 (the time to implement NPA relief w/o pooling)	Column L Cost Delay (in years of implementing NPA relief) = Column J – Column K
415	2005 1Q	2002 3Q	2.5
714	2004 2Q	2002 3Q	1.75
909	2003 1Q	2002 4Q	0.25
818	2004 4Q	2002 3Q	2.25
408	2005 1Q	2002 4Q	2.25
650	2006 3Q	2005 2Q	1.25
510	2004 4Q	2003 3Q	1.25
916	2006 1Q	2003 3Q	2.5
323	2004 4Q	2003 3Q	1.25
925	2007 2Q	2004 3Q	2.75
619	2008 3Q	2007 1Q	1.5
562	2015 1Q	2006 3Q	8.5
858	2018 2Q	2004 2Q	14

(END OF APPENDIX Table 3)